

exclusive jurisdiction over them, nevertheless expressly reserve to the State certain legislative powers within such areas.

The term "concurrent jurisdiction" is sometimes loosely applied. In *Valley County v. Thomas* (97 P. (2) 345), the Supreme Court of Montana commented that "the only exclusive jurisdiction is that of the federal government, and strictly speaking, it would seem that whenever the state reserves any power at all, even that of serving civil or criminal process, the jurisdiction is concurrent and not exclusive". This view, however, does not seem to be in accord with higher authority. It was held in *Leavenworth v. Lowe* (114 U. S. 525), that the reservation of power to serve process in a ceded territory does not constitute "any reservation of concurrent jurisdiction or legislation." After all it must be kept in mind that the Constitution speaks of "exclusive legislation"; and although the term is sometimes spoken of as being synonymous with exclusive jurisdiction, the question must be considered in the light of whether the State has reserved the power of legislation, and not merely an administrative power which may be consistent with the exclusive legislative authority of the Federal Government, and which would in no way hamper the full and effectual use of the land for Federal purposes.

It has been pointed out that the reservation by a State of the power to exercise purely administrative functions within a ceded area may be consistent with exclusive jurisdiction of the United States.¹ However, the exercise of such powers should not interfere with the Federal use for which the land was acquired.² It is for the Federal Government itself, to say what would be an interference with such use. Whether or not the State's exercise of a reserved power would interfere with the Government's functions is to be determined at the time the power is to be exercised. Therefore, its exercise might be permissible in one instance while objectionable in another, depending upon the requirements of the Federal Government at the time. Accordingly, State officers, before attempting to exercise any State functions within Federal lands should always obtain the permission of the representative of the Government in charge of the lands.

40. Service of State process in ceded areas.—Among the powers most commonly reserved by the States in yielding jurisdiction to the United States is the right to serve its processes within the ceded area. However, such reservation is considered by the courts as applicable only to causes of action, either criminal or civil, arising outside of the ceded area.³ Moreover, the right is limited to process which is personal. It has been held that where land has been sold to the United States and jurisdiction has been

¹ See section 18.

² 16 Atty. Gen. 592.

³ *Divine v. Unaka National Bank*, 140 S. W. 747.